



City of Nashua
 Planning Department
 229 Main Street
 Nashua, New Hampshire 03061-2019

Planning & Zoning 589-3090
 WEB www.nashuanh.gov

VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL NOT BE ACCEPTED

I. VARIANCE INFORMATION

1. ADDRESS OF REQUEST 7 East Dunstable

Zoning District RA Sheet 0109 Lot 60070

2. VARIANCE(S) REQUESTED:

Requesting variance for a total curb cut of 36' for driveways where 24' is allowed. (one driveway at 24' and one driveway at 12')

II. GENERAL INFORMATION

1. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

(Print Name): East Dunstable Properties - John Forcier

Applicant's signature [Signature] Date 3/23/23

Applicant's address 24 Merrimack St. Nashua NH 03064

Telephone number H: 603-882-6871 C: 603-235-0738 E-mail: johnforcier@comcast.net

2. **PROPERTY OWNER (Print Name):** East Dunstable Properties - John Forcier

*Owner's signature [Signature] Date 3/23/23

Owner's address 24 Merrimack St. Nashua, NH 03064

Telephone number H: 603-882-6871 C: 603-235-0738 E-mail: johnforcier@comcast.net

*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

OFFICE USE ONLY Date Received _____ Date of hearing 4-11-2023 Application checked for completeness: CF

A# 23-0041 Board Action _____

\$ 330 application fee #12838 Date Paid _____ Receipt # _____

\$ 15 signage fee Date Paid _____ Receipt # _____

\$ _____ certified mailing fee Date Paid _____ Receipt # _____

Land Use Code Section(s) Requesting Variances From: 190-17 (E)(1)

RECEIVED
MAR 23 2023

III. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

1. **Granting of the requested variance will not be contrary to the public interest**, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

Allowing the additional 12' curb cut would not be contrary to the public interest. Each driveway would be on a separate road. one on Burnett and the other on East Dunstable. Neither would be over 24' and would fit the character of both streets

2. **The proposed use will observe the spirit of the ordinance**, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

Granting this variance would not alter the character of the neighborhood nor threaten public health, safety or welfare in anyway.

3. **Substantial justice would be done to the property-owner by granting the variance**, because: (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

Yes justice would be done by granting this variance. There would be no harm to the general public or any others if this was granted.

4. **The proposed use will not diminish the values of surrounding properties**, because: (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

In no way would granting this variance diminish surrounding property values.

- 5. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship,** because: (The applicant must establish that because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

This is a corner lot and due to the city requirement to have 2 front yard setbacks we are unable to plan the driveways.

IV. USE VARIANCE ADDITIONAL INFORMATION N/A

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees Number of employees per shift
- b. Hours and days of operation
- c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors
- d. Number of daily and weekly commercial deliveries to the premises
- e. Number of parking spaces available
- f. Describe your general business operations:

- g. Describe any proposed site renovations, including, but not limited to – landscaping, lighting, pavement, structural changes, signage, access and circulation:

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those points specifically mentioned are affected by action taken on this appeal.

Signature of Applicant

John Forciter

Print Name

3/23/23
Date

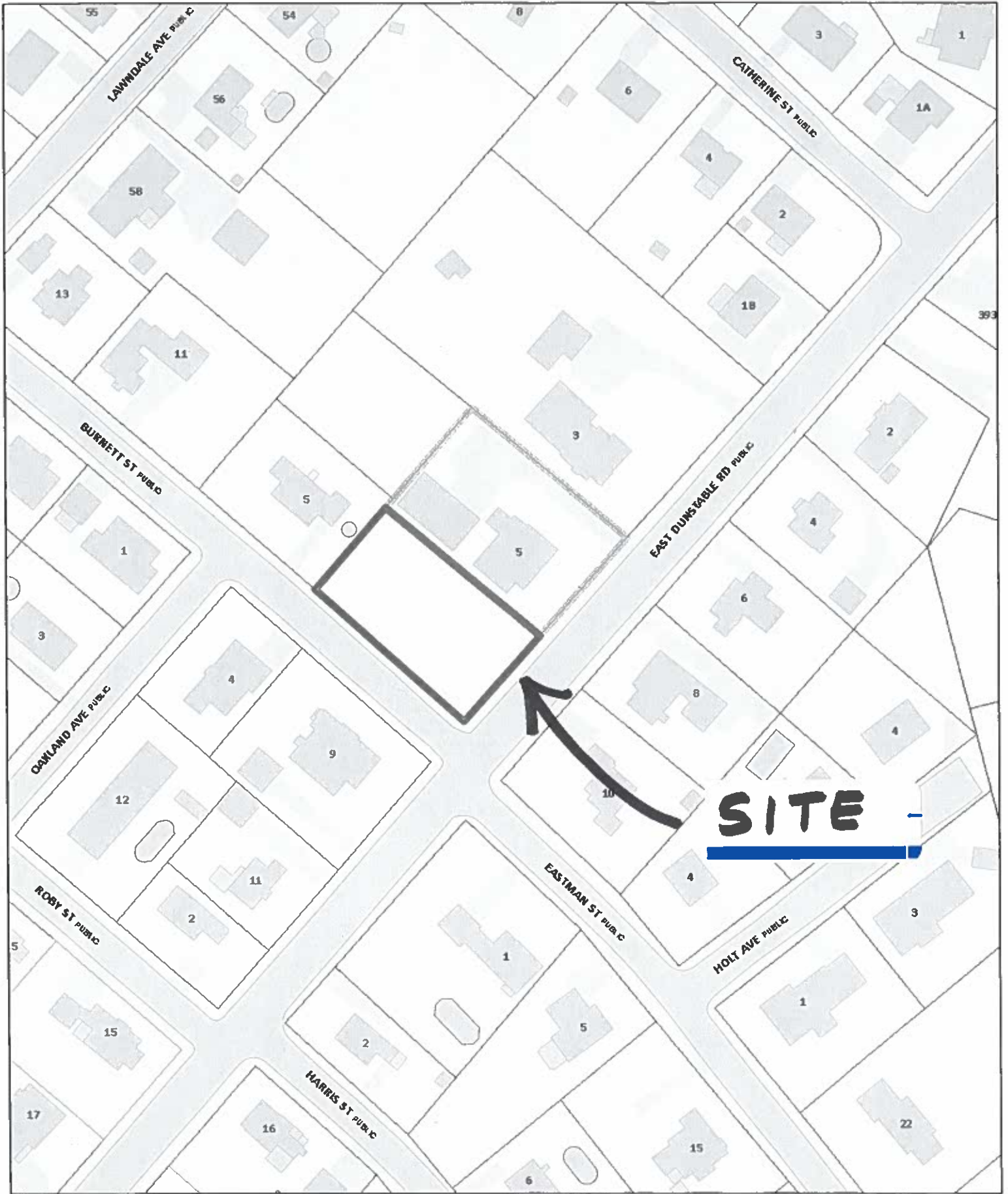
3/23/23

Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

- I will pick it up at City Hall
- Please email it to me at
- Please mail it to me at

7 East Dunstable Road



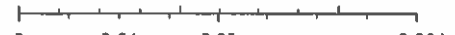
3/24/2023

Address Points

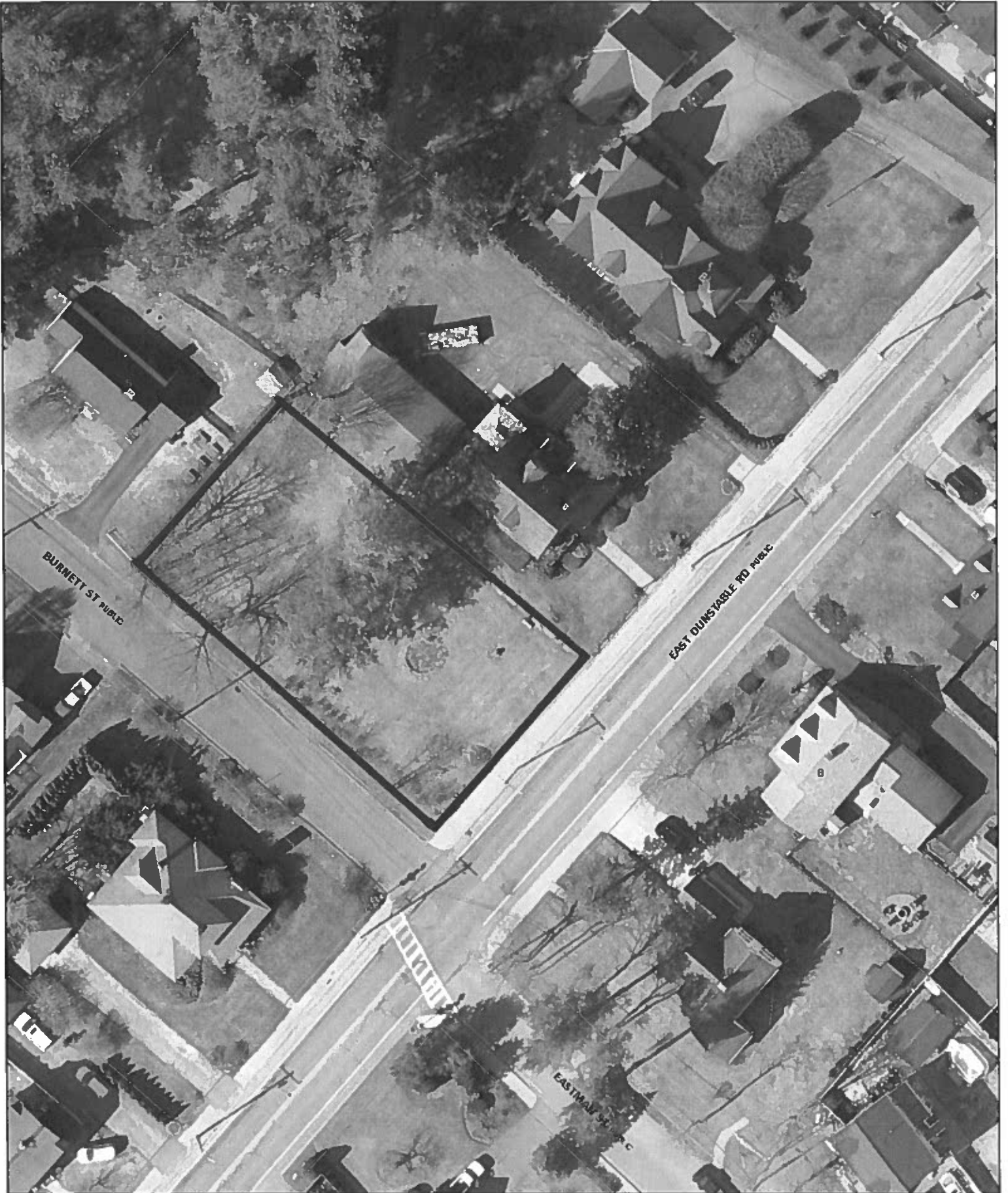
Road Names

1:1,121

0 0.01 0.01 0.03 mi



7 East Dunstable Road

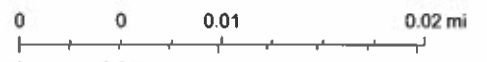


3/24/2023

Address Points

Road Names

1:560



SECONDED by Mr. Lionel.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

4. **East Dunstable Properties, LLC (Owner) John Forcier (Applicant) 7 East Dunstable Road (Sheet 109 Lot 76) requesting variance from Land Use Code Section 190-17, (E)(1) to exceed maximum driveway width, 24 feet permitted, 36 feet proposed, to construct one 24-foot wide driveway on Burnett Street, and one 12-foot wide driveway on East Dunstable Road. RA Zone, Ward 6.**

Voting on this case:

Mariellen MacKay
Steve Lionel
Jack Currier
JP Boucher
Josh Nehiley

Jess Forcier, 24 Merrimack Street, Nashua, NH. Mrs. Forcier said that they own the lot, and will be building the house for Lisa and Craig Adams. She said that they would live at the house with their Aunt. She said that the request is to exceed the maximum curb-cut width by 12 feet. She said that due to health issues, the proposed house would be a one-story ranch, with a separate driveway and garage, so each unit can enter their part of the home directly. She said that this style of home would accommodate the needs of this family best, the hardship exists in this lot due to it being situated on the corner of Burnett Street and East Dunstable Road, where it is required to have two front setbacks and two side setbacks, also, it is a very narrow lot, and due to the fact that the house has to face Burnett Street, the front setbacks at 25 feet, it is impossible to have the driveway fan out after the curb cut, which is what could happen on a regular lot as opposed to this narrow lot.

Mrs. Forcier said that granting this variance will not alter the neighborhood, nor alter the value of the surrounding properties in any way, actually it should increase values with a new home there. She said that the style of the home and the look of the driveway on both Burnett Street and East Dunstable would fit in on what currently exists on both of these streets, and the extra 12 feet of curb cut will not affect the public health, safety or welfare,

as substantial justice would be done by granting this variance to these new homeowners.

Mr. Nehiley asked to confirm if both of the driveways will lead to garages.

Mrs. Forcier agreed. She said that their original plan had the garage closer to Burnett, but it would have required two variances, so the floor plan was changed to make the driveway farther away from 50 feet from the intersection to make it safer.

Mr. Currier asked if it will be a single family home.

Mrs. Forcier said a single family house, not an in-law or two-family. She said that a building permit was submitted to the Building Department.

Mr. Boucher asked if there was any other considerations or designs to have three garages lined up together on Burnett Street. He said that East Dunstable Road can be a race-track, and with the position of the home on this lot it is so close to the Main Street intersection, with cars coming down the hill there, and it is a concern. He said that Burnett Street is not as busy of a street, it serves just that area.

Mrs. Forcier said that when the homeowner was designing the house, they wanted to do it to afford a little more privacy, since the homeowners aunt will be with them, so that's why they came up with the design for the driveways separated. She said that they cannot fan the driveway out, because the lot is not wide enough to do that, so the plan is to try to get them their desired outcome. She said that she frequently travels East Dunstable Road, and doesn't see it as busy, and the driveway is actually supposed to be on East Dunstable Road anyways, technically.

SPEAKING IN FAVOR:

Lisa Adams, 1465 Hooksett Road, Hooksett, NH. Mrs. Adams said that they're looking to move back to Nashua to provide some care to her aunt, who has never been married and is a lifelong resident of Nashua. She said that they would be taking care of her, and she has had some health issues, and a ranch would be the best option for privacy and also independence for the family.

Mr. Nehiley said that the Board is really concerned with the safety

issue of East Dunstable Road, and doesn't want to set them up for traffic problems with the East Dunstable driveway. He asked what she thought of her Aunt pulling in and out of East Dunstable Road.

Mrs. Adams said that she is a good driver, and hasn't had accidents, and is mentally competent to make correct decisions and take caution. She said that the proposed driveway and garage location was not an issue when this land was bought.

Mr. Boucher asked if there are any specific plans for the left side of the home on Burnett Street, if there is an opportunity to move the footprint down further away from East Dunstable Road.

John Forcier, 24 Merrimack Street, Nashua, NH. Mr. Forcier said that they could move the house down, but in doing that, could put a 24-foot wide driveway on East Dunstable Road, and there would possibly be enough room to fan it and have a three car garage, but it just puts a three car garage on East Dunstable Road, instead of a one car, and didn't know if that would necessarily help.

Mr. Falk said that it is a corner lot, with two front yards, East Dunstable Road and Burnett Street, and the other two lot lines are side yards, there is no rear yard. He said it could shift up, and the driveway on East Dunstable would only just get longer.

Mr. Forcier said that they've looked at it numerous different ways.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

David Campbell, 10 East Dunstable Road, Nashua, NH. Mr. Campbell said that he is representing himself, and a couple neighbors as well. He said that himself and his neighbors are all opposed to this variance. He said that the number one reason is safety. He said that congestion is another issue. He said that East Dunstable Road has become a racetrack, and has lived there for the past 35 years, and has watched it happen, and this intersection is widely used, and the neighbors have worked with the City to get a flashing pedestrian light there, it helps a little bit. He said that Haywards is at the end, and Burnett Road is the feeder, and people go down to Haywards and back, but this area is very congested. He said that there is a bus stop right in front of his house, and that also comes into play, it's a very congested intersection and there are safety and traffic problems there. He said that he's personally witnessed four traffic accidents in the past two years that were terrible crashes. He said it's safety and congestion.

He said that safety is within the public interest, and it is contrary to that. He said that owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship, and there is no hardship here, as Burnett is a much safer street to have a driveway on, and an additional 12 feet is not a hardship. He said that the spirit of the ordinance will not be observed here either, and substantial justice will not be done. He said that the neighbors feel that this will be a detriment to the abutting property values as well.

Mr. Currier asked where the traffic backs up to from the Main Street light, such as at 5:00p.m.

Mr. Campbell said it backs up quite a bit, and it's become a problem. He said that this is not the place to introduce another traffic problem.

SPEAKING IN FAVOR - REBUTTAL:

Mrs. Forcier said it doesn't sound like the opposition is against the variance, it sounds like they're against what is allowed there in the first place. She said that she totally appreciates that East Dunstable Road can be a racetrack, and the congestion there, as she travels the road many times a day. She said that she doesn't believe that the people who live there in this neighborhood are the ones that are causing the accidents, the racetrack issue is not from the residents who live in these houses. She said that they can put a driveway on East Dunstable Road and not even be here, they could put a 2½ story house with a longer driveway and have 3-4 cars coming out of it, and not be here. She said that she is concerned about safety here, and helped it by moving the driveway further away from the intersection, as it is important not to congest that intersection. She said that it is a corner lot, and the setbacks are different for a corner lot, and the need for this house to be a ranch. She said it seems like the opposition is for the curb cut on East Dunstable Road, which is not what this variance is for.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Campbell said that they were showed a plan showing 24 feet of driveway on Burnett, and 12 feet on East Dunstable Road. He said that they don't think it's a good plan. He said that they're going to have the prime driveway on Burnett, as it's hundreds of less cars a day. He said it seems like a luxury to have the other

driveway on East Dunstable, as it adds to the congestion and pedestrian crossing hazards there and it doesn't meet the hardship.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said he doesn't have an issue with the overage for the width of the driveways, and doesn't have a direct issue with having a driveway on East Dunstable. He said that they're asking for an extra 12 feet, and it's a viable argument in his mind to have an extra driveway for their aunt. He said that he would have been very comfortable with extra width on Burnett Street. He said that the need for the extra driveway is clear. He said that the traffic speed on East Dunstable Road is an enforcement issue. He said that overall, he's in favor of the overage, but just wants to see how it can be achieved.

Mr. Lionel said that one of the points of law is that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible to pursue, other than the variance. He said that the Board has heard that the applicants customer doesn't want their aunt to go through the other part of the house to get to her area, and understands that, but is looking at the request for two driveways, and the Board does take safety into consideration. He said that the Board had a long discussion about a variance in front of Bicentennial School in which there was an issue about a driveway, and safety there. He said that accommodating their aunt and her car can be done with a three car garage on Burnett Street, and is having trouble seeing how this request meets the first point of law.

Mr. Currier said that he appreciates the fact that the applicant and the builder have exhaustively thought about this design, and have come up with a design that works for them. He said that one of the criteria which the Board must stick with is in the property itself, and not with the needs of the owner. He said as much as he appreciates them taking care of their aunt, the request is about the health considerations of the proposed owner, and not at all with the land. He said that this screams of an in-law in the future, and said that he's struggling with a variance for a driveway that is not a criteria for an in-law. He said that he's struggling with the need in the land for the overage of the 12 feet. He mentioned perhaps tabling this, for perhaps some rationale for an extra driveway, but not in this configuration. He said that perhaps there is some overage warranted for a driveway, but is struggling with this configuration.

Mr. Nehiley said that he also has some concerns about the safety, as already discussed, and he also thought of a table. He said that he is not opposed to a larger driveway, he said that he is not favorable to adding a driveway to East Dunstable, it's already a raceway. He said that he's having a tough time with this, but would entertain a tabling of this case.

Mrs. MacKay said that she likes the idea of tabling this, and is amenable to asking the applicant about it. She said that she understands the need to try to help a family member, but down the road, this will be an individual with a disability, as we move further down, and perhaps we look at what the Disabilities Act would require, which may ease the driveway issues, and have them tweak this to think how they can make it accessible, because it seems to be the biggest thing that the Board is stumbling on now.

Mr. Boucher asked about the wording of the application, if it would have to be re-advertised.

Mr. Falk said probably so, since the advertisement was for a 24-foot driveway on Burnett Street and a 12-foot driveway on East Dunstable Road. He said if it goes to 32 or 36 feet on Burnett, staff would have to re-advertise it, as it's a different ad.

Mr. Boucher asked if the applicant would have to incur additional cost.

Mr. Falk said he's not sure, he'd have to look at administratively how it would work so that they'd not have to pay again. He said he'll have to look into it more.

Mr. Boucher said that he would be interested in tabling this case.

Mrs. MacKay said that she believes that if the Board asks for a redesigned plan, and it has to be re-advertised, that the applicant shouldn't incur the additional costs. She said that point one in the variance, there was talk of other ways to redesign or reconfigure this.

MOTION by Mr. Currier to close the Public Meeting, and re-open the Public Hearing to ask the applicant a question.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0 TO APPROVE THE MOTION PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

Mr. Forcier said he doesn't have an issue with tabling it, but asked how long it will be, as the future owner has already sold their house.

Mr. Falk said that if Staff has to re-advertise, it would have to go on the May 9, 2023 meeting. He said if staff does not have to readvertise, it can go to the next meeting. He said that if additional curb cut is proposed on Burnett, above, or over 24 feet, it would have to be re-advertised, as the ad is only for 24 feet on Burnett.

Mr. Falk said that it can be tabled to the next meeting, and that will allow time for staff and the applicant to look into this. He said it only can be heard at the next meeting if the driveway on Burnett is still no wider than 24 feet.

Mr. Forcier said that they wanted to come to the Board with the least amount of variances, but this may cause another variance.

Mr. Boucher said that he wanted to make it clear that the Board is not forcing them into anything, and it is possible for the Board to vote on the application submitted and advertised for tonight.

MOTION by Mrs. MacKay to table this case to the April 25, 2023 meeting.

Mr. Campbell said that his opposition was not to the widening of the driveway from 24 to 36 feet, it was doing it on East Dunstable Road, he said that if they wanted to put variances on Burnett, he didn't think there would be any opposition by the neighbors, he said if this is solved on Burnett, there wouldn't be any opposition.

Mrs. MacKay said that they're trying to find a solution for everyone concerned.

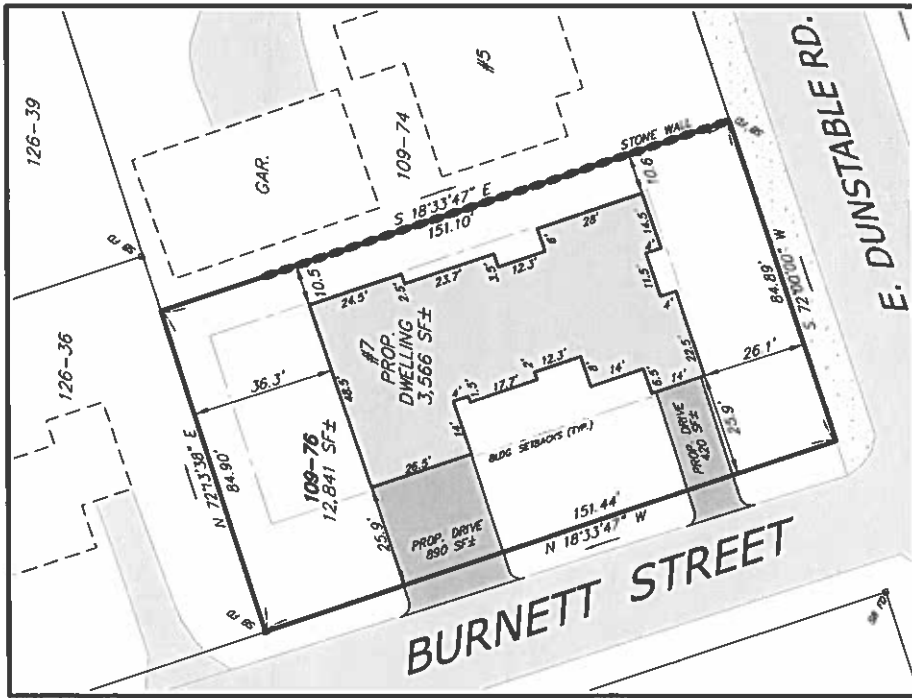
SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0 TO APPROVE THE MOTION PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

*** 5-minute break ***

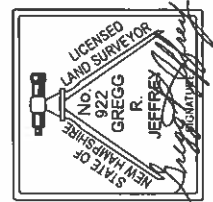
**PLAN OF LAND
7 EAST DUNSTABLE ROAD
NASHUA, NH
MAP 109 LOT 76
AS PREPARED FOR
E. DUNSTABLE PROPERTIES**

PLAN NOTES:
1.) PURPOSE OF THIS PLAN IS TO ILLUSTRATE
THE LOCATION OF A PROPOSED DWELLING
AT NASHUA LOT 109-76.



REV. 2	HSE., DRWYS TO BURNETT	BY:
REV. 1		4/24/23 BY: GRJ

ZONING DISTRICT: R-A
REQUIRED SETBACKS:
FRONT - 25 FEET
SIDE - 10 FEET
REAR - 25 FEET
DEED REF.: BK. 9605 PG. 453
PLAN REF.:
PLAN SCALE: 1"=30'
DATE: MAY 2022
JOB REF.: 022-035-MCLA



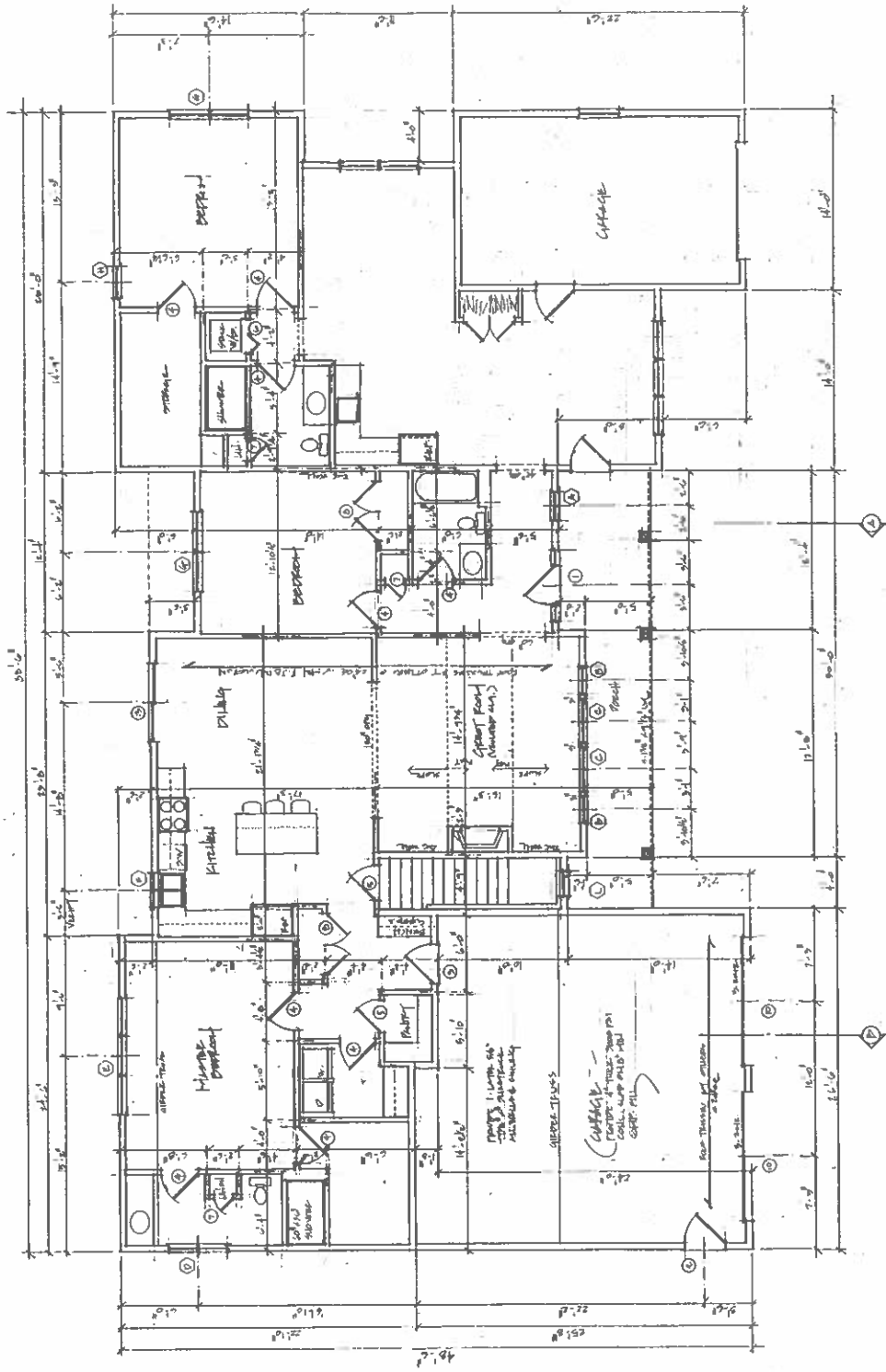
I HEREBY CERTIFY:
THAT THIS PLAN IS THE RESULT
OF AN INSTRUMENT SURVEY
AND THAT ALL MEASUREMENTS
HEREON ARE TO BE CONSIDERED
TRUE AND ACCURATE.

JEFFREY LAND SURVEY, LLC
1 BURCESS DRIVE, LITCHFIELD, NH 03052
(603) 424-4089

3

PROPOSED RESIDENCE
NASLUK, NH
DATE: 02/15/10
SCALE: 1/4" = 1'-0"

ENVISIONARY LINES, LLC
RESIDENTIAL DESIGN SOLUTIONS
100 Main Street, #202
Nashua, New Hampshire 03085
Tel: (603) 799-0125



1,076 SQUARE FEET MAIN HOUSE
957 SQUARE FEET ATTACHMENT
2,033 SQUARE FEET TOTAL

MAIN FLOOR PLAN
SCALE: 1/4" = 1'-0"